

SENATE BILL NO. 488

INTRODUCED BY J. TROPILA

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE SMALL EMPLOYER HEALTH INSURANCE AVAILABILITY ACT; INCREASING THE ALLOWABLE VARIANCE FROM THE INDEX RATE ALLOWED FOR PREMIUM RATES CHARGED; AMENDING SECTION 33-22-1809, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-22-1809, MCA, is amended to read:

"33-22-1809. Restrictions relating to premium rates. (1) Premium rates for health benefit plans under this part are subject to the following provisions:

(a) The index rate for a rating period for any class of business may not exceed the index rate for any other class of business by more than 20%.

(b) For each class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to the employer under the rating system for that class of business may not vary from the index rate by more than ~~25%~~ 30% of the index rate.

(c) The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

(i) the percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period; ~~in~~ In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, provided that the change does not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers;

(ii) any adjustment, not to exceed 15% annually and adjusted pro rata for rating periods of less than 1 year, because of the claims experience, health status, or duration of coverage of the employees or dependents of the small employer, as determined from the small employer carrier's rate manual for the class of business;

1 and

2 (iii) any adjustment because of a change in coverage or a change in the case characteristics of the
3 small employer, as determined from the small employer carrier's rate manual for the class of business.

4 (d) Adjustments in rates for claims experience, health status, and duration of coverage may not be
5 charged to individual employees or dependents. Any adjustment must be applied uniformly to the rates charged
6 for all employees and dependents of the small employer.

7 (e) If a small employer carrier uses industry as a case characteristic in establishing premium rates, the
8 rate factor associated with any industry classification may not vary from the average of the rate factors
9 associated with all industry classifications by more than 15% of that coverage.

10 (f) A small employer carrier shall:

11 (i) apply rating factors, including case characteristics, consistently with respect to all small employers
12 in a class of business. Rating factors must produce premiums for identical groups that differ only by the amounts
13 attributable to plan design and that do not reflect differences because of the nature of the groups. Differences
14 among base premium rates may not be based in any way on the actual or expected health status or claims
15 experience of the small employer groups that choose or are expected to choose a particular health benefit plan.

16 (ii) treat all health benefit plans issued or renewed in the same calendar month as having the same
17 rating period.

18 (g) For the purposes of this subsection (1), a health benefit plan that includes a restricted network
19 provision may not be considered similar coverage to a health benefit plan that does not include a restricted
20 network provision.

21 (2) A small employer carrier may not transfer a small employer involuntarily into or out of a class of
22 business. A small employer carrier may not offer to transfer a small employer into or out of a class of business
23 unless the offer is made to transfer all small employers in the class of business without regard to case
24 characteristics, claims experience, health status, or duration of coverage since the insurance was issued.

25 (3) The commissioner may suspend for a specified period the application of subsection (1)(a) for the
26 premium rates applicable to one or more small employers included within a class of business of a small
27 employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the
28 commissioner either that the suspension is reasonable in light of the financial condition of the small employer
29 carrier or that the suspension would enhance the fairness and efficiency of the small employer health insurance
30 market.

(4) In connection with the offering for sale of any health benefit plan to a small employer, a small employer carrier shall make a reasonable disclosure, as part of its solicitation and sales materials, of each of the following:

(a) the extent to which premium rates for a specified small employer are established or adjusted based upon the actual or expected variation in claims costs or upon the actual or expected variation in health status of the employees of small employers and the employees' dependents;

(b) the provisions of the health benefit plan concerning the small employer carrier's right to change premium rates and the factors, other than claims experience, that affect changes in premium rates;

(c) the provisions relating to renewability of policies and contracts; and

(d) the provisions relating to any preexisting condition.

(5) (a) Each small employer carrier shall maintain at its principal place of business a complete and detailed description of its rating practices and renewal underwriting practices, including information and documentation that demonstrate that its rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles.

(b) Each small employer carrier shall file with the commissioner annually, on or before March 15, an actuarial certification certifying that the carrier is in compliance with this part and that the rating methods of the small employer carrier are actuarially sound. The actuarial certification must be in a form and manner and must contain information as specified by the commissioner. A copy of the actuarial certification must be retained by the small employer carrier at its principal place of business.

(c) A small employer carrier shall make the information and documentation described in subsection (5)(a) available to the commissioner upon request. Except in cases of violations of the provisions of this part and except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction, the information must be considered proprietary and trade secret information and is not subject to disclosure by the commissioner to persons outside of the department.

(6) The commissioner may not require prior approval of the rating methods used by small employer carriers or the premium rates of the health benefit plans offered to small employers."

NEW SECTION. Section 2. Applicability. [This act] applies to all contracts issued or renewed on or after January 1, 2006.

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